



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2012-0880]

RIN 1625-AAOO

Safety Zone; Houma Navigation Canal, Mile Marker 35.5 to 36.5, and Gulf Intracoastal Waterway, Mile Marker 59.0 to 60.0, West of Harvey Locks, Bank to Bank; Houma, Terrebonne Parish, LA

AGENCY: Coast Guard, DHS.

ACTION: Interim rule and request for comments.

SUMMARY: The Coast Guard is establishing a safety zone in the Houma Navigation Canal, from Mile Marker 35.5 to 36.5, and in the Gulf Intracoastal Waterway (GIWW), from Mile Marker 59.0 to 60.0, West of Harvey Locks, bank to bank, during the completion of construction and repair work on the HWY 661 Swing Bridge, Terrebonne Parish, LA. Restrictions under this safety zone will be enforced intermittently as necessary to protect persons and property from hazards associated with the construction and repair operations on the Highway 661 Swing Bridge.

DATES: This rule is effective without actual notice [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] through July 1, 2014.

For purposes of enforcement, actual notice will be used from the date the rule was signed, December 13, 2013 until [INSERT DATE OF

PUBLICATION IN THE FEDERAL REGISTER].

Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of Docket Number USCG-2012-0880. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on "Open Docket Folder" on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may submit comments, identified by docket number, using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: (202) 493-2251.

(3) Mail or Delivery: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail MST1 Isaac Chavalía, U.S. Coast Guard; telephone (985)850-6456, e-mail Isaac.J.Chavalía@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

GIWW	Gulf Intracoastal Waterway
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments

and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to

<http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

4. Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

B. Regulatory History and Information

As provided under the "Public Participation and Request for Comments" section above, this interim rule includes a request for comments and the Coast Guard encourages the public to participate

through the comment process. Comments received will be reviewed to determine if this interim safety zone requires further review or revision.

The Coast Guard is issuing this interim rule without prior notice pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not providing notice and making this rule effective less than 30 days after publication in the Federal Register. The construction and repairs on the Highway 661 Swing Bridge have been ongoing since December 2012, for approximately one year, during which time the Coast Guard established temporary safety zones effective during certain construction periods. These restrictions were enacted and rescinded through broadcast notices to mariners and marine safety information bulletins. Local mariners and waterway users are aware of the ongoing bridge construction and repairs and transit through the area with restricted navigational requirements necessary to ensure safety of navigation continues without issue.

The Coast Guard received notice of a revised and extended timeline to complete construction and repair on the Highway 661

Swing Bridge on November 15, 2013. The Coast Guard reviewed the revised and extended timeline and remaining construction work to be done and determined that additional safety measures to ensure safety of navigation remain necessary. Based on the necessity of the work to be done and extended construction timeline presented to the Coast Guard, immediate action is required to establish this interim safety zone. Delaying the effective date for this interim rule to provide a full 30 days notice through publication in the Federal Register would be impracticable and contrary to public interest because it would unnecessarily delay the immediate action needed to protect persons and property from potential safety hazards associated with construction and repair operations on the Highway 661 Swing Bridge.

For the same reason discussed above, under 5 U.S.C. 553(d) (3) the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register.

C. Basis and Purpose

The Coast Guard received notice on November 15, 2013 that the construction and repair work on the Highway 661 Swing Bridge, Houma Navigation Canal, Mile Marker 36.0, to refurbish and retrofit the bridge to better serve the maritime commerce will continue through mid 2014. To protect the general public, vessels and tows from destruction, loss or injury due to the hazards associated with these construction operations in and

around the waterways, the Coast Guard is establishing this interim safety zone which will continue through July 1, 2014.

The legal basis and authorities for this rulemaking establishing a safety zone are found in 33 U.S.C. 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish and define regulatory safety zones.

The purpose of this safety zone is to provide additional safety measures for persons and vessels transiting in and through a specified area on the waterway and to protect life and property during the construction and repair operations on the Highway 661 Swing Bridge, Houma Navigation Canal Mile Marker 36.0. There will be numerous work and support vessels and personnel present and associated with the construction and repair operation. This operation poses significant safety hazards to both vessels and mariners operating in the vicinity of the Highway 661 Swing Bridge, Houma Navigation Canal Mile Marker 36.0.

D. Discussion of the Interim Rule

The Coast Guard is establishing an interim safety zone in the Houma Navigation Canal, from Mile Marker 35.5 to 36.5, and in the GIWW, from Mile Marker 59.0 to 60.0, West of Harvey Locks, bank to bank. This safety zone is effective December 13, 2013 and will continue through July 1, 2014.

The Captain of the Port (COTP) Morgan City or a designated representative will inform the public through Broadcast Notice to Mariners of schedule changes in the construction work and changes in effective dates and times for the safety zone. At all times, vessels and tows transiting between Houma Navigation Canal Mile Markers 35.5 to 36.5 and GIWW Mile Markers 59.0 to 60.0, West of Harvey Locks, are required to proceed at slowest safe speed to minimize wake until construction is completed or July 1, 2014, whichever occurs earlier. Additionally, Houma Navigation Canal, from Mile Marker 35.5 to 36.5 will have varying restricted horizontal clearance for marine traffic from 6:30 am to 11:30 am and 1:00 pm to 6:00 pm, seven days a week. To minimize waterway impact, this area will be open without channel restrictions to marine traffic from 6:00 pm to 6:30 am and from 11:30 am to 1:00 pm or until traffic clears, seven days a week. Waterway closures, if necessary to assist in the construction and repair process, will be made through Broadcast Notice to Mariners. Deviation from this safety zone may be requested from the COTP Morgan City or a designated representative. Deviation requests will be considered on a case-by-case basis.

E. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The safety zone listed in this rule will only restrict vessel traffic during construction and repair operations and enforcement periods are short in duration. The effect of this regulation will not be a significant regulatory action because: 1) this rule will only affect vessel traffic for short durations of time; 2) vessels may request permission from the COTP to deviate from this rule; and 3) the impacts on routine navigation are expected to be minimal due to scheduled periods without channel restrictions and required channel openings to clear traffic following a closure, if a closure is necessary. Notifications to the marine community will be made through Broadcast Notice to Mariners and Local Notice to Mariners. These notifications will allow the public to plan operations around the affected area and enforcement periods.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the

potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit in the affected portions of the GIWW and Houma Navigation Canal in the vicinity of the Highway 661 Bridge, Houma Navigation Canal Mile Marker 36.0. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The zone is limited in size, enforcement periods are of short duration and vessel traffic may request permission from the COTP Morgan City or a designated representative to deviate from the safety zone.

If you are a small business entity and are significantly affected by this regulation, please contact MST1 Isaac Chavalia, Marine Safety Unit Houma, at (985) 850-6456

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in

the "For Further Information Contact" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children from Environmental Health Risks

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety

Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a

significant effect on the human environment. The safety zone provides safety for the public while the Highway 661 Swing Bridge is being refurbished. This rule is categorically excluded from further review under paragraph (34)-(g.) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination will be made available as indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165-- REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. A new temporary § 165.T08-0880 is added to read as follows:

§ 165.T08-0880 Safety Zone; Houma Navigation Canal, from Mile Marker 35.5 to 36.5, and Gulf Intracoastal Waterway, from Mile Marker 59.0 to 60.0, West of Harvey Locks, bank to bank; Houma, Terrebonne Parish, LA

(a) Location. The following area is a safety zone: all waters of the Houma Navigation Canal, from Mile Marker 35.5 to 36.5, and in the Gulf Intracoastal Waterway, from Mile Marker 59.0 to 60.0, West of Harvey Locks, bank to bank, Houma, Terrebonne Parish, LA.

(b) Effective date. This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] through July 1, 2014. For purposes of enforcement, actual notice has been used from December 13, 2013.

(c) Periods of enforcement. This rule will be enforced with actual notice beginning on December 13, 2013 through July 1, 2014. The Captain of the Port (COTP) Morgan City or a designated representative will inform the public through Broadcast Notice to Mariners of the enforcement periods for the safety zone as well as any scheduled times for changes in the planned schedule.

(d) Regulations. (1) In accordance with the general regulations in §165.23 of this part, entry into this zone is prohibited unless authorized by the COTP Morgan City or a designated representative.

(2) Vessels requiring entry into or transit through the safety zone must request permission from the COTP Morgan City, or a designated representative. As a designated representative, the DOT 661 swing bridge operator may be contacted on VHF Channel 13 or 71.

(3) Mariners should contact the DOT 661 swing bridge operator prior to arrival at the safety zone for permission to enter or transit through the safety zone.

(4) If permission is granted, all persons and vessels shall comply with the instructions of the COTP Morgan City or a designated representative and pass at slowest safe speed to minimize wake.

(5) While the safety zone is in effect, there will be restricted clearance for marine traffic on the Houma Navigation Canal, from Mile Marker 35.5 to 36.5 from 6:30 am to 11:30 am and 1:00 pm to 6:00 pm, seven days a week. To minimize waterway impact, this area will be open without restriction to marine traffic from 6:00 pm to 6:30 am and from 11:30 am to 1:00 pm or until traffic clears, seven days a week.

(6) All persons and vessels shall comply with the

instructions of the COTP Morgan City and designated on-scene patrol personnel. On-scene patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(e) Informational broadcasts. The COTP Morgan City or a designated representative will inform the public through Broadcast Notice to Mariners of the enforcement periods for the safety zone as well as any changes in the planned schedule.

Dated: December 13, 2013

D.G. McClellan
Captain, U.S. Coast Guard
Captain of the Port Morgan City, Louisiana

[FR Doc. 2014-00902 Filed 01/16/2014 at 8:45 am; Publication Date: 01/17/2014]